

ARTHUR L. HECYELL

JANUARY 29, 1925.—Committed to the Committee of the Whole House and ordered to be printed

Mr. SWING, from the Committee on Naval Affairs, submitted the following

REPORT

[To accompany H. R. 4410]

The Committee on Naval Affairs, to whom was referred the bill (H. R. 4410) for the relief of Arthur L. Hecyell, having had the same under consideration, report favorably thereon with an amendment and as amended recommend that the bill do pass.

In line 7, after the word "grade" strike out the period, insert a colon, and add the following: "*Provided*, That no back pay, allowances, or emoluments shall become due as a result of the passage of this act."

Chief Machinist Hecykell was appointed a machinist in the Navy in 1914; he was temporarily advanced to the ranks of ensign, lieutenant (junior grade), and lieutenant during the period of the late war. In March, 1920, he appeared before a naval retiring board, which found him not incapacitated for service by reason of a disability which was not considered permanent if further operation should be performed; was sent to naval hospital. He was subsequently in May, 1921, examined physically preliminary to transfer to the rank of lieutenant, permanent grade regular, but was found not physically qualified because of the above-mentioned disability. June, 1921, in naval hospital at San Diego, Calif. Subsequently returned to duty. August, 1921, requested retirement in accordance with the act of July 12, 1921; no action taken. In November, 1921, again requested to be placed on the retired list or that all physical defects be waived and he be given his promotion. December, 1921, appeared before medical examining board; found not physically qualified for promotion because of said disability.

December 31, 1921, Mr. Hecykell's temporary appointment as a commissioned officer terminated by operation of the law, and he reverted to his permanent status as machinist, and after that date

he was not eligible under the law for retirement in his temporary rank. In March, 1922, ordered before retiring board and found permanently disabled on account of the above-mentioned disability, which was found to have been incurred in line of duty, and as the result of an incident of the service, and retired in the grade of chief machinist.

The committee feels that all the medical evidence taken together shows that Mr. Heckell had the same disability in August, 1921, that he had in March, 1922, when he was retired. The committee therefore feels that he was entitled to have been retired at the time he made application in August, 1921.

The department recommended legislation covering this and other cases in the omnibus legislative bill, but the committee feels that these cases should be covered by private bills and not by general legislation.

In reporting on that proposed legislation the department said:

This section is proposed in order to provide for the retirement in the temporary rank held by the officers concerned in the cases of several officers who have been retired since the termination of their temporary appointments and who incurred physical disability during the period of time they were serving under the higher temporary appointments. It is believed that the proposal is equitable because of the fact that many other officers were retired in the higher ranks under similar conditions prior to the termination of their temporary appointments.

In these cases the officers concerned appeared before retiring boards in 1921, but action was delayed owing to doubt as to whether the incapacity was permanent. Subsequently it became apparent that such incapacity was of a permanent nature, and the officer was retired. The retirement, however, did not become effective until after December 31, 1921, and the officer necessarily was retired in the lower rank. Had retirement been effected on the first occasion of the meeting of the retiring board, these officers would have been retired in their temporary rank.

The following-named retired officers will probably be entitled to the benefits of this legislation, and it is possible that one or two may not come within its provision:

Name	Rank in which retired	Prior temporary rank
Harold G. Billings	Chief boatswain	Lieutenant.
Stephen A. Farrell	Chief gunner	Do.
Arthur L. Heckell	Chief machinist	Do.
Robert B. Sanford	do	Do.
George Kleinsmith	Gunner	Do.
William A. Byrnes	Lieutenant (junior grade) (Marine Corps)	Do.
James J. Joyce	Chief boatswain	Do.
Frank Flaherty	Chief machinist	Do.
George R. C. Thompson	do	Do.
Joseph R. Bradshaw	do	Do.
George W. Fairfield	do	Do.
James J. Lucas	Gunner	Do.

The following letter from the Secretary of the Navy addressed to the chairman of the Committee on Naval Affairs of the House of Representatives sets forth the attitude of the Navy Department in the case:

NAVY DEPARTMENT,
Washington, December 22, 1924.

The CHAIRMAN COMMITTEE ON NAVAL AFFAIRS,
House of Representatives.

MY DEAR MR. CHAIRMAN: Replying to the committee's letter of December 2, 1924, inclosing a bill (H. R. 4410) for the relief of Arthur L. Heckell, and

requesting the views and recommendations of this department thereon, I have the honor to inform you as follows:

The purpose of this bill is to authorize the President to appoint Arthur L. Hecykell a lieutenant in the United States Navy and to place him on the retired list of the Navy with the retired pay and allowances of that grade.

Arthur L. Hecykell was appointed a machinist in the Navy in January, 1914. He was temporarily advanced to the rank of ensign, lieutenant (junior grade), and lieutenant during the period of the World War. In 1920 he appeared before a naval retiring board, which board found him not incapacitated for service by reason of a disability which was not considered permanent if further operation should be performed, and further found that the disability was incurred in the line of duty as the result of an incident of the service, which originated prior to the date of his temporary appointment as an ensign. He was subsequently examined physically preliminary to promotion to the grade of chief machinist and found not qualified.

Mr. Hecykell's temporary appointment as a commissioned officer terminated by operation of law on December 31, 1921, when he reverted to his permanent status as a machinist, and after that date he was not eligible, under the law, for retirement in his temporary commissioned rank. In 1922 he was retired in the grade of chief machinist by reason of the aforementioned disability, which was again found to have been incurred prior to his temporary advancement in rank. The report of the retiring board in this case reads, in part, as follows:

"* * * find him to be incapacitated for active service by reason of adhesions of the peritoneum following two abdominal operations; that his incapacity is permanent and was incurred in line of duty, not in time of war, as the result of an incident of the service, and furthermore that his disability was incurred while serving as a machinist in the United States Navy, and that it is 75 per cent for the naval service and 25 per cent for civil life."

Section 9 of the naval omnibus bill (H. R. 4086) provides as follows:

"That any officer of the regular Navy who has been retired since December 31, 1921, by reason of physical disability which originated in the line of duty at any time between April 6, 1917, and March 3, 1921, inclusive, while holding higher temporary rank shall be advanced on the retired list to, or shall be placed on the retired list in, such higher grade or rank."

Should the above-quoted section of the department's omnibus bill (H. R. 4086) be enacted, Mr. Hecykell would be accorded an opportunity to present all the facts in his case before a retiring board convened in accordance with said section 9.

In view of all the foregoing, and the further fact that this proposed legislation is individual in character and is not for the general good of the naval service, this department recommends that the bill H. R. 4410 be not enacted.

Sincerely yours,

CURTIS D. WILBUR,
Secretary of the Navy.

